



DEPARTMENT OF HEALTH & HUMAN SERVICES
Food and Drug Administration
Northeast Region
State Programs Branch

Food and Drug Administration
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March 17, 1997

Paul Anderson
Maine Department of Marine Resources
Mckown Point Road
West Boothbay Harbor, ME 04575

Dear Mr. *Paul* Anderson:

Enclosed is the draft water quality element evaluation for FY-97 which concentrated on conditional areas. It was determined that the following deficiencies exist in the water quality element:

Area C-17 (marina closure) is misclassified as the procedures of the NSSP were not followed in reducing the closure zone.

The STP conditional area agreements do not define inadequate treatment specifically enough for treatment plant operators to understand when they are expected to provide notification.

Some of the marina areas reopen the day after the boats are removed, which does not allow time for any residual bacteria to be reduced through dilution and die-off.

Conditional area management plans must be evaluated annually as required in the Manual.

The following recommendations are made:

In Area C-17, write the survey for the reclassification to a smaller seasonal closure or revert back to the original closure next spring.

Develop and implement a policy or procedure to determine the specific criteria for notification of DMR by STP operators. Application of that procedure would create the criteria that would be incorporated in the Management Plans.

Develop and implement a policy defining the minimum time from removal of boats to opening of areas closed because of the presence of the boats.

Exercise care in eliminating sample stations by evaluating station location in relation to the source of pollution.

The annual evaluation of the Conditional Area Management Plan must include:
written evaluations of the effectiveness of the Management Plan.s, and
field evaluation of the sources of pollution.


Tables of data should have the number of samples.

Exercise more care in editing to eliminate errors caused by "cut-and-paste" errors.

Please review the documents and provide me with your comments by April 30. Your response should address Items F, G and H of the evaluation report which requires you to present your plans to correct these deficiencies, with time-frames.

I would like to thank you and your staff for the help and hospitality extended to me during these efforts.

Sincerely,



Ira J. Somerset
Regional Shellfish Specialist

PROGRAM ELEMENT EVALUATION REPORT

Maine Water Quality Program

State: Maine

Date of Evaluation: March, 1997

Program Element Evaluated: Water Quality

A. Previous deficiencies

B. Total number of conditional areas - 23

C. Number of areas evaluated

There are 23 conditional areas in Maine; using the table in Attachment C, it was determined that 14 would be evaluated. Five of nine were selected at the Lamoine lab, and the rest (nine of fourteen) from the Boothbay Harbor laboratory. The questions supplied in the Compliance Program were used to determine if the management plans and the annual evaluations met the requirements of the NSSP. The worksheets are attached.

D. Areas evaluated

- Area C-2 York River
- Area C-5 Webhannet River
- Area C-11 Scarborough River
- Area C-11 and C-13 Scarborough Beach and Western Beach
- Area C-16 Royal and Cousins Rivers
- Area C-16 Cousins River, Little River, Winslow Park
- Area C-17 Harraseeket River
- Area C-22 Cod Cove, White's Island
- Area C-25 Damariscotta River
- Area C-27 St. George River
- Area C-36 Bagaduce River
- Area 37-I Western Cove
- Area C-40 Upper Union River Bay
- Area 52-E Birch Harbor, Gouldsboro
- Area C-55 Machias River

E. Deficiencies

See attached memo for deficiencies and recommendations.

F. State actions

G. Time frames and commitments

H. State accomplishments

See attached memo.

I. Special projects, training programs, etc. provided to state
Consultation as needed.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration

NORTHEAST REGION
STATE PROGRAMS BRANCH

MEMORANDUM

DATE : March 17, 1997
FROM: Ira J. Somerset, Regional Shellfish Specialist, NER
SUBJECT: Maine Conditional Area Evaluation
TO: Maine files - FY 97

There are 23 conditional areas in Maine; using the table in Attachment C, it was determined that 14 would be evaluated. Five of nine were selected at the Lamoine lab, and the rest (nine of fourteen) from the Boothbay Harbor laboratory. The questions supplied in the Compliance Program were used to determine if the management plans and the annual evaluations met the requirements of the NSSP. Copies of the worksheets are attached. The deficiencies are summarized below.

Area C-2 York River

Conditionally Approved (seasonal) - marina

There is insufficient time after the boats are removed until the area is opened to allow time for reduction of pathogenic bacteria discharged into the water. This area opens the day after the boats are said to be out of the area.

There was no annual field evaluation of the marina by DMR.

There is no area outside the marina that is open when the seasonal closure is in effect, so the calculation of a minimum closure zone is not applicable.

This area is scheduled for its triennial review this year.

Area C-5 Webhannet River

Conditionally Approved (seasonal) - marina

There is no area outside the marina that is open when the seasonal closure is in effect, so the calculation of a minimum closure zone is not applicable.

There was no annual field evaluation of the marina by DMR.

Area C-11 Scarborough River

Conditionally Approved - Rainfall

The annual evaluation for 1996 has not been completed yet; the 1995 review used the old checklist, which partially satisfies the requirements.

Area C-11 and C-13 Scarborough Beach and Western Beach

Conditionally Approved - STP

There was no annual field evaluation of the STP by DMR.

Area C-16 Royal and Cousins Rivers

Conditionally Approved - STP

The annual evaluation of the area for 1996 has not been completed yet; the 1995 review used the old checklist, which partially satisfies the requirements.

There was no annual evaluation of the conditional management plan.

Area C-16 Cousins River, Little River, Winslow Park

Conditionally Approved - Rainfall All three areas must meet approved area standards for this are to open.

The annual evaluation of the area for 1996 has not been completed yet; there has not been an evaluation of the management plan as required in the Manual.

Area C-17 Harraseeket River

Conditionally Approved - STP

Conditionally Approved (seasonal) - marina

The size of the marina closure was due to application of the marina formula. Following a significant amount of work by the town and the movement of many moorings for boats with heads into the STP closure area, the marina closure was reduced without recalculation.

The annual evaluation of the area for 1996 has not been completed yet; there has not been an evaluation of the management plan as required in the Manual.

There was no annual field evaluation of the STP or marina by DMR.

There is insufficient time after the boats are removed until the area is opened to allow time for reduction of pathogenic bacteria discharged into the water. This area opens the day after the boats are said to be out of the area.

This plant is reported to be well-operated, and the operator maintains close contact with DMR, providing notification for all treatment irregularities.

Area C-22 Cod Cove, White's Island

Conditionally Approved - STP

Conditionally Approved (seasonal, White's Island) - Marina

The annual evaluation of the area for 1996 has not been completed yet; there has not been an evaluation of the management plan as required in the Manual.

There was no annual field evaluation of the STP or marina by DMR.

This marina consists of town-owned moorings with small fishing boats, no slips.

Area C-25 Damariscotta River

Conditionally Approved and Conditionally Restricted - STP

The Management Plan does not define specific criteria to define conditions of treatment failure, nor does it include bypasses from other system components such as pump stations.

There was no annual field evaluation of the STP by DMR.

Area C-27 St. George River

Conditionally Approved and Conditionally Restricted - STP

The Management Plan does not define specific criteria to define conditions of treatment failure other than not meeting the NPDES Discharge Permit requirements. Those requirements are not specific enough in relation to a specific episode to provide adequate guidance to the operator. E.g., many are based on a 30-day average result.

Area C-36 Bagaduce River

Conditionally Approved - STP

There was no annual field evaluation of the STP by DMR. The operator was interviewed by telephone.

There was no annual evaluation of the conditional management plan.

There was no written analysis of the findings from the annual evaluation, although the data are reviewed.

The annual growing area evaluation for 1996 addressed most of the requirements of C.4.d.iv(b), but not all. The format for conditional area evaluation should be followed.

The Management Plan does not define specific criteria to define conditions of treatment failure other than "discharge of untreated sanitary waste", nor does it include bypasses from other system components such as pump stations.

This plant is reported to be well-operated, and the operator maintains close contact with DMR, providing notification for all treatment irregularities.

Area 37-I Western Cove

Conditionally Approved (seasonal) - due to the presence of a seasonally occupied summer school.

There was no annual evaluation of the conditional management plan.

There was no annual field evaluation of the STP by DMR. The facility is reviewed by the DEP for compliance with the seasonal operation permit.

There was no written analysis of the findings from the annual evaluation, although the data are reviewed.

Area C-40 Upper Union River Bay

Conditionally Approved - STP

There was no annual field evaluation of the STP by DMR.

There was no written analysis of the findings from the annual evaluation, although the data are reviewed.

The annual evaluation for 1996 addressed most of the requirements of C.4.d.iv(b), but not all. The format should be followed.

The Management Plan does not define specific criteria to define conditions of treatment failure other than "discharge of untreated sanitary waste", nor does it include bypasses from other system components such as pump stations. There is a letter in the area file (1/9/95) which corrects the requirement for notification of DMR to read "...untreated or partially treated sewage..." but that was not carried forward to the 1996 agreement.

It was noted that there were stations shown on the map that were not sampled, and there were stations that were sampled that were not on the map. The relation between the potential source of pollution and the monitoring point must be considered in station location.

Area 52-E Birch Harbor, Gouldsboro

Conditionally Approved (seasonal) - marina

There was no annual evaluation, nor was there an analysis of the findings of the annual review.

Area C-55 Machias River

Conditionally Approved - STP

There was no annual field evaluation of the STP by DMR.

There was no written analysis of the findings from the annual evaluation, although the data are reviewed.

There was no annual evaluation of the conditional management plan.

The Management Plan does not define specific criteria to define conditions of treatment failure other than "...after a malfunction...", nor does it include bypasses from other system components such as pump stations.

Conclusions

Overall, significant progress has been made in some reviews, but additional effort is necessary to develop consistent policies and practices. Some of these concerns are being addressed (see attached memo of 2/24/97 from Anderson), and, as a result of the discussions during these reviews, progress has been made with others. A draft format for the annual conditional area review has been developed by DMR, and is under review. The deficiencies are noted on the worksheets, and were discussed with each responsible staff member during the evaluation.

It should be noted that the DMR closes the conditional areas when treatment irregularities are reported, and does not reopen until after the situation ceases to exist and the water samples demonstrate that the approved area standard of 14 FC/100mls has been met. There is no reliance on predictability in these areas to automate reopenings.

The marina closure in Area C-17 was reduced without a sanitary survey being written to document the process and justification for reducing the closure zone. That makes the area misclassified.

Recommendations

In Area C-17, write the survey for the reclassification to a smaller seasonal closure or revert back to the original closure next spring.

Develop and implement a policy or procedure to determine the specific criteria for notification of DMR by STP operators. Application of that procedure would create the criteria that would be incorporated in the Management Plans.

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